IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13323 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PANKAJBHAI GANPATBHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 13323 of 2003

MS KRISHNA U MISHRA for Petitioner No. 1

MR AMRISH K PANDYA for Petitioner No. 1

MR RM CHAUHAN Ld. AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE J.R.VORA

Date of decision: 08/10/2003

ORAL JUDGEMENT

By way of this special civil application, the petitioner has challenged the order of detention passed

against him by the Police Commissioner, Ahmedabad city on 10.12.2002 under the exercise of powers under sec. 3(1) of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "the PASA Act" for short).

The grounds served upon the petitioner and placed on record reveal that the detaining authority relied upon three offences registered against the petitioner on 30.8.2002, 20.1.2003 and 8.9.2003 under sec. 147, 148, 149, 336, 337 of IPC and under sec. 135 of BP Act. The detaining authority also relied upon in-camera statements recorded by the proposing authority on 1.12.2002 and verified by the detaining authority on 7.12.2002 revealing the incidents of 7.11.2002 and 16.11.2002. From the above material, the detaining authority came to the conclusion that the petitioner was required to be detained under the PASA Act and hence, the order impugned.

Heard ld. advocate Mr. Pandya for Ms. Mishra for the petitioner and ld. AGP Mr. RM Chauhan for the respondents were heard at length.

Out of various contentions raised on behalf of the petitioner and controverted by ld. AGP, it appears that the matter can be disposed of on the ground of delay in passing the order. The last offence came to be registered against the petitioner on 8.9.2002, however, the proposing authority could record the statements of the witnesses on 1.12.2002 revealing the incidents of 7.11.2002 and 16.11.2002 and verified by the detaining authority on 7.12.2002. The order impugned came to be passed by the detaining authority on 10.12.2002, hence, there is delay of about three months in passing the order of detention from the last offence registered against the petitioner. The facts of this case are squarely covered by a decision of the Apex Court in the matter of Pradeep N. Paturkar vs. S. Rammurthi as reported in AIR 1994 SC 656 and a decision of this Court in the matter of Elesh Nandubhai Patel vs. Commissioner of Police Ahmedabad city, as reported in 1997(1) GLH p. 381. The order impugned is required to be quashed on this ground alone.

In the result, this special civil application is allowed. The order impugned in this special civil application passed on 10.12.2002 by the Police Commissioner, Ahmedabad City, under the PASA Act against the petitioner is quashed and set aside. The petitioner

is directed to be set at liberty forthwith, if he is not required to be detained in jail for any other purpose. Rule made absolute with no order as to costs.

(J.R. VORA, J.)

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